

ORDER NO. 1766

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Robert G. Taub, Vice Chairman;
Mark Acton;
Tony Hammond; and
Nanci E. Langley

Market Dominant Product Prices
Bilateral Agreement Between United States Postal
Service and Singapore Post Limited (MC2010-35)
Negotiated Service Agreement

Docket No. R2013-8

ORDER APPROVING MODIFICATION TO SINGAPORE POST LIMITED–
UNITED STATES POSTAL SERVICE BILATERAL AGREEMENT

(Issued June 26, 2013)

I. INTRODUCTION

The Postal Service filed notice of a modification to an existing bilateral agreement with Singapore Post Limited (Singapore Post).¹ The modification (Modification Three or Modification) extends the agreement filed in Docket No. R2012-1 (Singapore Post Agreement or Agreement) until March 31, 2014 and revises the rates in Annex 1 of the Agreement. *Id.* at 2. The Postal Service requests that the Singapore

¹ Notice of United States Postal Service of Filing Additional Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 Negotiated Service Agreement (With Singapore Post Limited), June 4, 2013 (Notice). The Notice was filed pursuant to 39 C.F.R. § 3010.40 *et seq.*

Post Agreement, as modified, be included within the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 product. For the reasons provided below, the Commission approves the Postal Service's request.

II. BACKGROUND

In Order No. 995, the Commission approved the inclusion of Singapore Post Agreement within the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 product.² The Singapore Post Agreement concerns inbound Letter Post small packets with delivery confirmation scanning. Subsequently, the Postal Service sought—and the Commission approved—two extensions of the expiration date.³

In Order No. 1741, the Commission provided public notice of the Postal Service's filing of Modification Three.⁴ Order No. 1741 also established the instant docket for consideration of matters raised by the filing and took other administrative steps. *Id.* at 4-5.

III. THE POSTAL SERVICE'S POSITION

Statutory criteria. The Postal Service observes that under 39 U.S.C. § 3622, the criteria for the Commission's review are whether the Singapore Agreement, as modified, improves the net financial position of the Postal Service or enhances the performance of operational functions; will not cause unreasonable harm to the marketplace; and will be

² See Docket No. R2012-1, Order Approving Rate Adjustment for Singapore Post-United States Postal Service Letter Post Bilateral Agreement Negotiated Service Agreement, November 23, 2011 (Order No. 995).

³ See Docket No. R2013-5, Order Approving an Additional Inbound Market Dominant Multi-Service Agreement with Foreign Postal Operators 1 Negotiated Service Agreement (with Singapore Post), January 3, 2013 (Order No. 1610) (granting a six-month extension) and Order No. 1721, Order Granting Motion for Temporary Relief, May 17, 2013 (granting an extension to the earlier of the effective date of the 2013 Agreement or July 31, 2013.)

⁴ See Notice Concerning Bilateral Agreement with Singapore Post Limited, June 7, 2013 (Order No. 1741).

available on public and reasonable terms to similarly situated mailers. Notice at 6-7. The Postal Service states that it addresses the first two criteria in its Notice. With respect to the third criterion, the Postal Service asserts there are no entities similarly situated to Singapore Post in their ability to tender broad-based Letter Post flows from Singapore under similar operational conditions, nor are there any other entities that serve as a designated operator for Letter Post originating in Singapore. *Id.*

Reporting. The Postal Service requests that the Agreement be excepted from separate reporting under 39 C.F.R. § 3055.2(a)(3) for reasons described in its Docket No. R2012-1 Notice and for consistency with Commission decision on this point in Order Nos. 995 and 1610. *Id.* at 6.

IV. COMMENTS

The Public Representative filed comments on June 14, 2013.⁵ No other comments were received. The Public Representative's review of the Modified Agreement and financial workpapers leads him to conclude that the Agreement is consistent with the criteria in 39 U.S.C. § 3622(c)(10) and is functionally equivalent to the agreements within the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 product. PR Comments at 2.

Statutory criteria. The Public Representative identifies 39 U.S.C. § 3622(c)(10) as establishing the applicable statutory criteria. With respect to the first criterion, he concludes that the rates under the Agreement should generate more contribution for the Postal Service than the applicable Universal Postal Union (UPU) terminal dues rates that would apply absent a bilateral agreement. *Id.* He therefore concludes that the rates should improve the net financial position of the Postal Service and continue to make improvements in the operational performance of the Postal Service. *Id.* at 2-3. With respect to the second and third criteria, the Public Representative states that the

⁵ Public Representative Comments, June 14, 2013 (PR Comments).

Postal Service makes reasonable arguments that these criteria are not implicated by the Agreement. *Id.* at 3.

Functional equivalence. The Public Representative observes that the Commission has previously determined that the Singapore Post Agreement is functionally equivalent to the agreements within the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators product. *Id.* He states that other than extending the expiration date and revising the rates in Annex 1, the Agreement does not materially change the terms of the existing Singapore Post Agreement. Therefore, the Public Representative concludes that the Agreement is also functionally equivalent to the agreements within the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 product. *Id.*

V. COMMISSION ANALYSIS

Modification Three changes the existing Singapore Post Agreement in two ways, *i.e.*, by extending the termination date until March 31, 2014 and adjusting the rates in Annex 1 of the Agreement. Neither of these changes affects the Commission's previous finding that the contract is properly classified as market dominant nor its finding that the Singapore Post Agreement is functionally equivalent to other agreements included within the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 product. Order No. 995 at 5-6. Thus, the Agreement, as modified, may be included in the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 product.

Modification Three revises prices under the Singapore Post Agreement. Thus, the Commission reviews it for consistency with section 3622(c)(10), which requires, among other things, that the Agreement, as modified, improve the net financial position of the Postal Service. The Commission finds that the Notice and supporting workpapers establish that the Singapore Post Agreement, as modified, satisfies section 3622(c)(10). Unit revenue from projected volumes should exceed its estimated unit attributable costs. The rates are also higher than the default UPU rates.

In Order No. 995, the Commission concluded that “[t]here is no indication that the Agreement will cause unreasonable harm in the marketplace.” *Id.* at 5. Nothing in the Modification changes that conclusion.

The Commission finds that availability on public and reasonable terms to similarly situated mailers (as required by 39 U.S.C. § 3622(c)(10)) does not appear to be directly applicable, given the status of Singapore Post.

In Order No. 995, the Commission granted the Postal Service’s request for an exception from the requirement to report service performance for the Singapore Post Agreement because negotiated service agreements with substantially all components of the Agreement included in the measurement of other products may be granted an exception from reporting pursuant to 39 C.F.R. § 3055(a)(3). *Id.* at 6. The Postal Service renews that request in this proceeding with respect to the Agreement, as modified. Because these reporting conditions continue, consistent with Order No. 995, the Commission grants the waiver.

VI. ORDERING PARAGRAPHS

It is ordered:

1. The Singapore Post Agreement, as modified, is included within the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 (MC2010-35, R2010-5 and R2010-6) product.
2. The Postal Service shall notify the Commission if the effective date of the Singapore Post Agreement, as modified, differs from the date identified in the Notice.
3. The Postal Service shall notify the Commission if the Singapore Post Agreement, as modified, terminates early.

4. Within 30 days of expiration, or upon early termination of the Singapore Post Agreement, as modified, shall file related costs, volumes, and revenues data.
5. The Postal Service's request that the Singapore Post Agreement, as modified, be excepted from separate reporting under 39 C.F.R. § 3055.3(a)(3) is granted.

By the Commission.

Ruth Ann Abrams
Acting Secretary